

assistance to small PCS licensees owned by members of minority groups and women should receive tax certificates.

### **More on Infrastructure Preferences**

While Calcell lauds the SBAC for the fine job it did in completing the analytical work that led to these recommendations, more recommendations are required to more completely fulfill Congress' stated objective for creating economic opportunity for women and minority owned businesses. Calcell believes that adding infrastructure preferences to the SBAC recommendations will complete the package and fully addresses Congress' objective.

The infrastructure preference concept has the advantage of rewarding companies in the designated groups beyond just the initial license period<sup>40</sup>. It also has criteria that endeavors to reward women and minority owned companies with capital equipment supply opportunities and has mechanisms to create new jobs and training for socially and economically disadvantaged workers. Perhaps the most important element of the infrastructure preference concept is that it is not based on race or gender and should therefore be able to withstand legal and constitutional challenges. In effect, any small business can receive one if they agree to abide by the criteria for one.

Infrastructure preferences provide a unique way of implementing a social agenda through private enterprise. It is not a quick fix hand out, but an on-going means of reversing the systematic biases that have hurt women and minority owned businesses<sup>41</sup>. Through the training and development programs, the next generations of inner city youths will have increased exposure to high technology, and access to good paying, quality jobs. Through participation as employees,

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<sup>40</sup> Eligibility for an Infrastructure Preference continues for the life of the license and not just in the pre-license period.

<sup>41</sup> The Wall Street Journal published the results of a survey on minority business which showed that 1% of their funding came from the SBA and 70% came from personal savings. In contrast, for all U.S. businesses only 25% of the funding came from personal savings.

some may acquire the knowledge to become the innovators of the next generation of communications technology. Only opportunity provided through job training and employment can make this happen and it will not happen without policy that provides incentives for these programs. A real economic opportunity cost exists for companies or entities that want to develop and establish programs similar to those recommended in the infrastructure preference concept.

The Commission may want to extend the infrastructure preference designation to the 10 MHz block of spectrum for designated entities in addition to the 20 MHz block. However, this should be considered only a second designated band in addition to the 20 MHz block because the 10 MHz block will likely be combined with other spectrum blocks rather than be used to form independent, standalone systems. Calcell recommends that the Commission consider expanding the infrastructure concept to other competitive bidding situations too.

#### **Tax Certificates**

Tax certificates can also play a major role in assisting minority owned firms overcome capital formation challenges. Tax certificates that allow investors in women and minority firms upon sale of their shares to receive tax deferment benefits, similar to the rules and programs that exist for broadcast properties are critical to ensuring that adequate capital will be available to finance minority owned firms. As recent statistics on venture capital formation highlight, the change in tax laws which effectively raised capital gains taxes in 1986 had a detrimental impact on venture capital formation, cutting by two-thirds the new funds committed to the industry over a three year period<sup>42</sup>. As lack of access to capital is a severe problem for minority businesses, tax certificates are absolutely

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<sup>42</sup> Coincident with the tax reforms of 1986 new funds for venture capital investment fell from over \$4 billion in 1986 to just over \$1 billion in 1989.

critical to provide incentives for investment companies to invest in minority owned ventures.

### **Eligibility Requirements**

The traditional definitions that the Commission has used in the past to determine eligibility for minority groups should be used to determine the eligibility here. The SBAC's report defined the groups that should be considered racial minorities and included Black (African-American), Hispanic surnamed, American Eskimo, Aleut, American Indian and Asiatic American extraction. Women should not be designated as minorities unless they are members of one of the above named groups.

Calcell further recommends that to be considered a minority owned firm minority members must have voting control of the entity (50.1%) and at least a 20% equity ownership position in the firm. Also the top executive must be a minority (CEO). Given the capital intensity of PCS<sup>43</sup>, it will be difficult for minority owned firms keep 51% equity ownership over the life of the project. Therefore Calcell supports a more lenient 20% minimum equity participation for minority owned firms.

### **Resale Of Licenses**

Since licenses are awarded via auction using competitive bidding, there should be minimal restrictions on the resale of licenses. We recommend that a sliding scale for remuneration of profits after all expenses have been considered be used to guard against unjust enrichment for licenses in designated entity bands. The sliding scale would allow a special tax to be applied to the proceeds designated entities might gain from the sale of their licenses. This tax would be

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<sup>43</sup> PCS networks will require large amounts of capital to build-out to meet Commission performance requirements. Most firms will need access to traditional capital markets to complete their funding including minority firms. Some flexibility to accommodate the dilution this will cause will be required for minority companies to succeed in obtaining the capital they need.

applied as follows, 100% in the first year, 80% in the second year, 60% in the third year, 40% in the forth year, and 20% in the fifth year. After five years there would be no unjust enrichment provision, licenses could be sold or traded without penalty. This would apply to all licenses whether they are holders of infrastructure preferences or not.

## CONCLUSION

Calcell sincerely believes that the only way for the nation to accomplish a major policy objective such as the rebuilding of the communications infrastructure in our inner cities is for the public and private sectors to join forces and make this a top priority. The public sector seems to work best when it sets policies that provide the private sector with the proper incentives to implement that policy. We as a nation are unstoppable when we focus our minds, energy and resources on accomplishing an important objective such as infrastructure improvement. Two specific examples illustrate the nation's resolve in this area, the development of the nation's interstate highway system in the 1950s, and the development of space technology that led to the United States being the first country to have a man walk on the moon in the 1960s.

If we apply the same zeal our nation used in the above examples to rebuild the infrastructure in our inner cities, we will undoubtedly succeed. The Commission has a unique opportunity to play a major policy role in the rebuilding our inner cities' communications infrastructure. In combination with Congress, the Commission can use its policy mandate to propose criteria for the award of infrastructure preference spectrum licenses that include incentives for firms to rebuild our inner cities. The Commission's policies when coupled with the recommendations of Congress and the Executive branch for designated enterprise zones will help bring about the overall program needed to ensure that

our cities get rebuilt and that the U.S. maintain leadership in worldwide wireless infrastructure.

Respectfully submitted,

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